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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1972

No. 72-797

PERCY BLAND, et al
Petitioners

vs.

ROBERT McHANN, et al
Respondents

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit

BRIEF OF RESPONDENT IN OPPOSITION

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February 10, 1973

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1972

No. 72-707

PERCY BLAND, et al.,
Individually and on behalf of all other similiarly situated, Petitioners,

v.

ROBERT McHANN, et al.,
Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF OF RESPONDENTS IN OPPOSITION

OPINIONS BELOW

The opinion of the District Court (App. A of Petition) is unreported. The opinion of the Court of Appeals for the Fifth Circuit (App. B of Petition) is reported at 463 F.2d 21.

JURISDICTION

The Petition adequately sets forth the jurisdictional requisites.

QUESTIONS PRESENTED

1. Whether the jurisdictional bar of 28 U.S.C. § 1341 precludes a Federal District Court from enjoining the assessment,

collection or levy of municipal property tax assessments when its jurisdiction is invoked on the basis of 42 U.S.C. § § 1981 and 1983.

2. Whether Federal District Courts have jurisdiction to enjoin the assessment, collection or levy of municipal ad valorem taxes in the face of the restrictions of 28 U.S.C. §1341, merely because a claim for refund is joined with the prayer for injunctive relief.

3. Whether Mississippi law provides a plain, speedy and efficient remedy for challenging municipal property tax assessments within the meaning of 28 U.S.C. § 1341.

STATUTORY PROVISIONS INVOLVED

The pertinent provisions of Titles 28 and 42, United States Code, are set forth in the Petition at pp. 4-5. Pertinent provisions of the Mississippi Code of 1942 will be noted in the argument, infra.

STATEMENT

This litigation concerns the procedures for the assessment of municipal ad valorem taxes on real property for the Town of Edwards, Mississippi for the year 1966. Prior to the time when the municipal assessment roles for that year were compiled, at least some of the petitioners and members of the petitioner class had carried on certain constitutionally protected activities such as boycotts and protests, the precise nature of which is immaterial to this litigation.

There was absolutely no proof in the record in this cause that the constitutionally protected activities to which reference has been made aroused antagonism in the white community as asserted at page 6 of the Petition, nor was there any proof in this record that one of the defendant aldermen wrote the leaflet referred to by counsel for petitioners. A reading of the quoted portion of the leaflet clearly reflects, not antagonism, but concern for the well-being of a community. (Pet. p. 6).

Counsel for petitioners assumes and states as a matter of

fact throughout the statement of the case (Pet. pp. 5-11) that the assessments in question were, in fact, racially discriminatory or arrived at in a racially discriminatory manner. The record in this case simply does not justify such a conclusion although the District Court afforded the petitioners a hearing on the merits of their case (Pet. App. A). The sole proof relating to any racial discrimination was the testimony of a statistician which was rejected by the District Court (Pet. App. A) and the alleged statements attributed to one alderman set forth at page 7 of the Petition. The statement quoted was part of the deposition testimony of one David McGee. On the trial of the case, Agie Stevens who had been identified by McGee as being present when the conversation with the alderman took place denied any recollection that the alderman had used the ephithet attributed to him

Petitioners' eye-witness to the alleged discrimination also gave the following testimony on direct examination:

> "And Mr. Tupper told him, said, well, y'all are going to have to go down there and vote. You're going to have to vote this boycott off. He said, y'all are going to have to pay for it by taxes. Your taxes are going to be double. *Your taxes and mine too.* They are going to be double. And he said, y'all better go vote this boycott out. So, he talked and talked and he said, now, *my taxes are going to be double and also yours are going to be double.*" (Emphasis supplied).

During 1966 the Tax Collector for the town of Edwards received the county assessment rolls which are listed by map and parcel number, and she put them onto town rolls in alphabetical order, entering as to each separate parcel the valuation which had been placed on the rolls for the year preceding. Thereafter, the Tax Collector met with the Mayor and Board of Aldermen who spent three or four nights equalizing the tax assessment rolls, with any change from the assessment for the prior year being indicated in red.

After this equalization procedure, the Board of Aldermen, on November 19, 1966, caused to be published in the *Edwards*

Hummer a Notice that the rolls had been equalized and that they were then open for public examination. The Notice is quoted in the Petition at page 29. The notice established November 29, 1966 as the date of the meeting at which objections to the tax assessment rolls would be heard. In addition to the publication, the Notice was posted in four or five public places.

On November 29, 1966, the Board of Aldermen convened to hear objections but, according to the Minutes of the Town of Edwards, there were no written objections filed as provided by law and no person appeared to protest the assessments or any of them. Neither petitioners nor any member of the petitioner class protested in the manner provided by state law; although some black property owners did attempt to pay their taxes with the word "protest" upon their checks.

In January, 1969, more than two years after the date upon which objections should have been made according to state law and two years after the taxes for the year 1966 had become due and payable, this suit was filed seeking injunctive relief, among other things.

The statistics set forth at page 6 of the Petition and the stipulation at Petition pp. 7-8 are correctly stated. Further, petitioners have correctly stated the nature of the allegations of their complaint and the relief sought thereby (Pet. pp. 8-10); however, it was not shown that Mississippi State Court procedure does not provide for class action. Further, it affirmatively appeared from the proof that Mississippi law does permit an injunction against the collection of illegal taxes. There was no showing that the 10% penalty assessed to unsuccessful appellants was a deterrent to challenges to assessments in state court or that it was violative of due process and equal protection guarantees. While there was a showing that Mississippi law makes no provision for the recovery of interest on taxes in a refund suit; there was no showing that Mississippi law prohibited the recovery of interest in such an instance. Further, there was no showing that Mississippi procedure did not allow adequate notice to the class of affected taxpayers.

The District Court afforded the Petitioners a hearing on the merits but denied the relief sought. The District Court found that petitioners were not entitled to any injunctive relief because of the provisions of 28 U.S.C. §1341 (App. A of Pet., p. 11a) and further found that: "These plaintiffs have a perfectly expeditious and valid remedy in the state court to assure the fact that their property is fairly and equally assessed under the requirements of our State Constitution according to its fair and reasonable market value" (App. A of Pet., p. 14a-15a).

The Court of Appeals for the Fifth Circuit, with a circuit judge from the Third Circuit sitting by designation, found that the District Court should not have conducted a hearing on the merits and vacated the judgment (App. B of Pet., p. 31a). The Court of Appeals, however, affirmed the finding of the District Court that 28 U.S.C. §1341 precluded the District Court from granting injunctive relief saying:

> "...Taxpayers seek to circumvent §1341 by arguing that relief under §1983 is supplemental and is not limited to any requirement of exhaustion of state remedies. We do not disagree with the general rule that exhaustion is not required in §1983 cases; however, in this case §1983 collides full force with a specific congressional limitation on Federal jurisdiction. In such circumstances we are convinced that §1341 must prevail." (App. B of Petition, p. 20a)

The Court of Appeals further found that the remedy provided taxpayers by Mississippi law was plain, speedy and efficient within the purview of 28 U.S.C. §1341 stating:

> "Taxpayers' complaints that the Mississippi remedy is inadequate appear in reality to be an argument that a *better* remedy would available in the Federal Courts. Neither the judicial decisions nor §1341 requires that the state remedy be the best remedy available or even equal to or better than the remedy which might be available in the Federal Courts. §1341 merely requires that the state remedy be 'plain, speedy and efficient.' Thus, in view of the District Court's finding, this

"Court's decision in *Monaghan*, and our own independent review of the available state remedy, we conclude that the Mississippi remedy is plain, speedy and efficient." (Emphasis by the Court) (App. B of Pet., p. 30a).

Thereafter a Petition for Rehearing and Petition for Rehearing En Banc were denied by the Court of Appeals.

ARGUMENT

This is not a proper case for the grant of a Writ of Certiorari. The decision of the Court of Appeals was imminently correct; there is no conflict among the circuits nor with the decisions of this Court; and there is no substantial Federal question presented by the petition. The decision below is obviously a well considered and thought out opinion which is in harmony with the holdings of this Court and of other circuits. Petitioners suggest that an action based upon 42 U.S.C. §1983 should not be subject to the jurisdictional bar of 28 U.S.C. §1341 if relief is sought as a class and state court procedure has no class action practice. Petitioners, in effect, seek a return to the former equity rule that suits in equity shall not be sustained in the Federal Courts in any case where a plain, adequate, and *complete* remedy may be had *at law*. *Hillsborough Twp. v. Cromwell*, 326 US 620, 90 L.Ed. 358 (1945). 28 U.S.C. §1341 does not require a *complete* remedy *at law*. The section in question provides, rather, that District Courts may not enjoin the collection, assessment or levy of state taxes where a plain, speedy and efficient remedy may be had in the courts of the state. The decision below is entirely in harmony with the provisions of the statute.

Contrary to the assertion of counsel for petitioners, the opinion of the court below does not provide "a new weapon in the arsenal of contrivances available for racial discrimination and for the suppression of dissent". (Petition p.12). What the decision of the court below does is to follow the established precedent of this Court and of other circuits and to maintain the proper regard for the independence of state governments and the proper reluctance to interfere by injunction with their

fiscal operations. *Great Lakes Dredge & Dock Co. v. Huffman*, 319 US 293, 87 L.Ed. 1407 (1942).

I.

The Decision Below Does Not Raise Substantial Questions as to the Proper Interpretation of 28 U.S.C. § 1341 in Civil Rights Cases Seeking Relief from Allegedly Racially Discriminatory Tax Assessments.

Petitioners suggest (Pet. pp. 12-16) that the Court has engrafted exceptions upon the bar of 28 U.S.C. § 1341. It is submitted that such simply is not the case. Cases involving the United States and its instrumentalities, see *e.g.*, *Dep't. of Employment v. United States*, 385 US 355 (1966) are bottomed on the proposition of the basic exemption of federal instrumentalities from taxation by states because the power to tax is the power to destroy. *McCulloch v. Maryland*, 4 Wheat 316, 4 L.Ed. 579 (1819).

The cases pertaining to the United States and its instrumentalities are not an instance of carving out an exception by an analytical process. The Court of Appeals for the Ninth Circuit has refused to extend the Federal Instrumentality doctrine to a possessory interest tax on the lessee's interest in certain lands held in trust by the United States for Indians. *Agua Calliente Band of Mission Indians v. County of Riverside*, 442 F.2d 1184 (9th Cir., 1971), cert. den. 405 US 933; reh. den. 405 US 1033.

Petitioners cite *Great Lakes Dredge & Dock Co. v. Huffman*, supra, as being an indication that § 1341 is not a jurisdictional bar to relief against discriminatory state taxation relying on language in *Huffman*, supra, relating to the exercise of discretionary power by the federal courts. This Court will, no doubt, readily recognize that involved in *Huffman* was the jurisdiction of the District Court to grant a declaratory judgment that a tax was discriminatory. The discussion concerning the discretionary power of the Court very clearly appears solely because 28 U.S.C. § 1341 did not specifically prohibit the granting of declaratory relief. The Court in *Huffman*, supra, recog-

nized the relationship between the state taxing authorities and the Federal Courts and held that notwithstanding the failure of 28 U.S.C. §1341 to specifically enumerate the granting of declaratory relief, the Federal Court should withhold such relief when there was an adequate remedy in state law.

Petitioners assert that 28 U.S.C. §1341 was never intended to deprive Federal Courts of jurisdiction to redress the deprivation of rights secured by 42 U.S.C. §§1981 and 1983; although counsel incorrectly states that those statutes conferred original and *exclusive* jurisdiction upon the Federal Courts. The statute in question did confer original jurisdiction; however the Federal Court does not have exclusive jurisdiction to determine the rights provided by 42 U.S.C. §1981. We agree that the congressional reports dealing with 28 U.S.C. §1341 reflect a concern with the unjust advantage which had theretofore been enjoyed by foreign corporations, particularly railroads, which enjoyed the advantage of access to the Federal Courts on the basis of diversity of citizenship. A reading of those reports, however, makes it clear that the railroad situation was merely the catalyst which led to the enactment of the predecessor of 28 U.S.C. §1341. The reports make it unquestionable that the statute in question was not intended to deprive any taxpayer of his equitable rights or his day in court and recognized that any federal questions concerning the constitutionality of a tax, if decided adversely to the taxpayer in the state courts, could be brought to this Court by appeal, as in other cases.

Had it been the intent of Congress to preclude only foreign corporations from having access to the Federal Courts where there was a plain, speedy and efficient remedy available in the courts of the state, the Act of Congress could very simply have provided that the District Courts would not have jurisdiction, on the basis of diversity of citizenship, to enjoin, suspend or restrain the assessment, levy or collection of any state tax; however, the Congress did not choose to utilize such restrictive language. It is clear that the District Courts are Congressional Courts, not Constitutional Courts; so that the Congress may limit the jurisdiction of those courts as it sees fit. *Kline v. Burke Construction Co.*, 260 US 226 (1922). Such a limitation has

been provided by §1341.

The bar of 28 U.S.C. §1341 has not been applied just to non-resident corporations. It has also been applied to individual non-residents and to individual residents. See, *e.g.*, *Toomer v. Witsell*, 334 US 385, 392, 92 L.Ed. 1460 (1948); *Hargrave v. McKinney*, 413 F.2d 320 (5th Cir., 1969); *Kiker v. Hefner*, 409 F.2d 1067 (5th Cir., 1969); *American Commuters Association v. Levitt*, 405 F.2d 1148 (2d Cir., 1969); *Gray v. Morgan*, 371 F.2d 172 (7th Cir., 1966) cert. den., 386 US 1033 (1967). In several of the cases cited the taxpayer's claim for relief was allegedly grounded upon the provisions of 42 U.S.C. §§1981 and 1983; however, the courts involved in those cases did not see fit to engraft §1983 as an exception upon the clear jurisdictional bar of §1341. It is submitted that it would be improper to attempt to do so.

Finally, petitioners suggest that the holding of the Court of Appeals for the Fifth Circuit is inconsistent and incompatible with the recent holding of this Court in *Mitchum v. Foster*, US , 32 L.Ed. 2d 705 (1972). Respondents earnestly submit that the ruling of the court below, expressed in its opinion, is entirely compatible with the holding of *Mitchum v. Foster*, supra. This Court in *Mitchum v. Foster*, while finding that §1983 is an Act of Congress which falls within the "expressly authorized" exception of 28 U.S.C. §2283, nevertheless, held that in so finding the court was not in any manner questioning or qualifying in any way the principles of equity, comity and federalism that must restrain a Federal Court when asked to enjoin a state court proceeding. The opinion of the Court, together with the concurring opinion of the Chief Justice and Justices White and Blackmun, make it particularly clear that merely because an action under §1983 is specifically authorized within the terms of 28 U.S.C. §2283, there must nevertheless be a determination that the given case falls within the narrow class of circumstances set forth in *Younger v. Harris*, 401 US 37 (1971) before an injunction may issue.

The holding of this Court in *Mitchum v. Foster*, supra, is, therefore, not really so different from the situation which we have here. Without any further pronouncement by this Court, a

§1983 action, like any other action, is clearly maintainable notwithstanding the provisions of §1341 so long as the state courts do not afford a plain, speedy and efficient remedy. For this Court to hold that §1983 provides an exception to §1341 and that an action under §1983 may be maintained without regard to the availability of a plain, speedy and efficient state remedy would be to totally ignore the principles of equity, comity and federalism long recognized, and reiterated in *Mitchum v. Foster*, supra.

The petitioners suggest that 28 U.S.C. §1341 is merely a codification of prior equity principles and a matter of comity. It is clear from reading the congressional history of §1341 that it was closely patterned after 28 U.S.C. §2283 which was at issue in the case of *Mitchum v. Foster*, supra. A similar argument was advanced in *Atlantic Coast Line R. Co. v. Brotherhood of Locomotive Engineers*, 398 US 281, 26 L.Ed. 2d 23 (1970) as respects 28 U.S.C. §2283. This Court, in that case, while recognizing that general principles of federalism and due regard for the proper relationship between state and federal courts had given rise to the enactment of the predecessor of §2283, nevertheless held that:

> "On its face the present Act is an absolute prohibition against enjoining state court proceedings, unless the injunction falls within one of the three specifically defined exceptions. The respondents here have intimated that the Act only establishes a 'principle of comity,' not a binding rule on the power of the Federal Courts. The argument implies that in certain circumstances a Federal Court may enjoin state court proceedings even if that action cannot be justified by any of the three exceptions. We cannot accept any such contention. . . [We] hold that any injunction against state court proceedings otherwise proper under general equitable principles must be based on one of the specific statutory exceptions to §2283 if it is to be upheld. . ." 398 US 286-287.

The position enunciated in *Atlantic Coast Line R. Co.*, supra, was reiterated in *Mitchum v. Foster*, supra.

Respondents earnestly submit to the Court that §1341, like §2283, is an absolute prohibition against enjoining the assessment, levy or collection of any tax under state law unless the injunction sought, whether under §1983 or otherwise, is under circumstances where the state court procedure does not provide a plain, speedy and efficient remedy. Such, we submit, is not the case in the instant litigation. Respondents urge this Court to recognize that a §1983 action presently occupies the same position with respect to the prohibition of §1341 as a §1983 action now enjoys vis a vis §2283 after the decision of this Court in *Mitchum v. Foster*. Stated otherwise no further action of this Court is necessary in order to achieve the intended purpose of §1983, insofar as taxpayers' suits are concerned.

Certainly, if this is a proper case for the issuance of a Writ of Certiorari, which we respectfully urge it is not, then it should be solely for the purpose of announcing finally that §1983 does not engraft an exception upon the clear wording and congressional intent encompassed in §1341.

II.

The Decision Below Raises No Substantial Question of Whether A Suit for the Refund of Taxes Paid on Allegedly Unconstitutional and Illegal Assessments is Barred by 28 U.S.C. §1341.

The foregoing argument clearly applies to this point of petitioners' Brief. We submit that there is no substantial question on this point because it is clearly recognized that an action for refund, standing alone, is clearly within the jurisdiction of the Court. It is the position of respondents, however, that a taxpayer cannot circumvent the prohibition of §1341 by joining with a prayer for injunctive relief a suit for refund. To allow such action would clearly subvert the purposes of §1341 and disregard the delicate balance which has so long been recognized between the powers of the Federal Government and the financial needs of the several states.

We submit that if there is any question concerning the propriety of a District Court's refusing to grant injunctive relief on the coattail of a suit for refund, that question is easily answered by resort to the holding of this Court in *Great Lakes Dredge & Dock Co. v. Huffman*, supra. We would agree wholeheartedly with the argument of counsel contained at pp. 18 - 21 of the Petition if this were solely a suit for refund; however that is not the case. Furthermore, we would suggest that even if this were a suit for refund, only, the general principles enunciated in *Huffman*, supra, might well warrant a Federal Court's refusing, under the circumstances of a particular case, to entertain a suit for refund.

We contend, however, that there is no logical basis by which a taxpayer can contend that the prohibition of §1341 can be circumvented by joining in the complaint, a cause of action or prayer for refund of the taxes sought to be enjoined. Certainly, not one of the authorities cited by counsel supports that proposition.

III.

The Decision Below Raises No Substantial Question Regarding the Standard by Which the Adequacy of the State Remedy is to be Measured in Interpreting 28 U.S.C. § 1341.

Respondents submit that there is no question but that the remedies provided to the taxpayers by Mississippi law are plain, speedy and efficient. Furthermore, each of the grounds assigned as making the Mississippi remedies inadequate (Pet. pp. 21-31) were advanced by petitioners in the Court of Appeals, and it is submitted that the opinion of the court below adequately answers each of those contentions. (App. B to Pet. pp. 28a-31a). Some few additional comments, however, appear to be in order.

It appears from the Petition that the main ground upon which petitioners seek to have the Mississippi procedures declared inadequate is the supposed lack of class action relief. Admittedly, this writer made the statement in a Memorandum

of Law in the District Court that Mississippi had no class action procedure. The correctness of this statement now appears in doubt based upon the holding of the Supreme Court of Mississippi in *Barrett v. Coullet*, 263 So.2d 764 (Miss., 1972); for, contrary to the assertion of counsel (Pet. p. 23), the cited case does *not* hold that Mississippi has no class action procedure. Quite to the contrary, the cited case merely held that there was no proper class in that case and further recognized that class suits were not provided by statute in Mississippi as was the case in Federal Courts. In fact, the Mississippi Supreme Court in that case noted:

> "Mississippi has no statute setting forth guide lines for class actions. Therein lies the difference between a class action in this state and one in a Federal Court, because the right to such action is provided by statute in Rule 23 of the Federal Rules of Civil Procedure. *However, class suits have been recognized in Mississippi as a matter of general equity jurisdiction.*" (Emphasis supplied) (263 So.2d 764, 765).

It would thus appear that the Mississippi Supreme Court, as recently as 1972, has recognized the existence of class suits in Mississippi as a matter of general equity jurisdiction and has very forcefully refuted the statement made by this writer in a previous memorandum. Further, the Court in that case cited readers to § 1583.5, Mississippi Code of 1942 (Anno., Recomp.) which impliedly recognizes class suits by providing that:

> "Where a party hereafter institutes a suit for the benefit of himself and all others similarly situated, and thereby there is in such suit recovered or preserved property or a fund for the common benefit, the Chancery Court may make an allowance to such party of the reasonable costs incurred, which costs shall include the necessary disbursements, and reasonable solicitor's fees, out of the property recovered or preserved for the common benefit."

We thus submit that it cannot be said that there is no class suit procedure in Mississippi. Further, there is a serious question

as to whether the multiplicity of suits which is alluded to by counsel can be avoided by a class action even under the Federal Rules of Civil Procedure; for, in order for there to be a determination that the tax in question is discriminatory, there must also be a determination, with respect to each separate parcel of land in the town of Edwards so assessed, that the assessed value does not comply with the standard of 25% to 30% of fair market value stipulated by the parties to be the general rule of thumb utilized by the town officials in assessing ad valorem taxes. Thus a court attempting to entertain jurisdiction of this case would be met with much the same situation as was found to exist in *Matthews v. Rodgers*, 284 US 521, 76 L.Ed. 447 (1932).

Petitioners next complain that the injunctive relief provided by § 1340, Mississippi Code of 1942 (Anno., Recomp.) is unavailable as a practical matter since the case relates to enjoining assessments. *Yazoo & Miss. Valley R. Co. v. Adams*, 73 Miss. 229, 19 So.91 (1895) did make the general statement that § 1340 was unavailable to enjoin the making of assessments. However, a reading of that case very clearly demonstrates that there an attempt was made to enjoin the taxing authority from making assessments in the first place which would have cast upon the court the burden of making assessments which it did not have the equipment to do. No reported Mississippi case has yet held that injunctive relief is not available to enjoin the collection of taxes based upon an illegal or unconstitutional assessment already completed. Certainly there is no way to tell whether an assessment is going to be illegal or unconstitutional until it has, in fact, been made. Furthermore, Petitioners should not be heard to complain that they could not enjoin the actual assessment process when this suit was not instituted until more than two years later.

Moreover it has been recognized in at least one court of record in Mississippi that a suit to enjoin the final approval, by a taxing authority, of unconstitutional assessments can be maintained under the general equity jurisdiction of the Chancery Court. Such was the holding of the Chancery Court of the First Judicial District of Hinds County, Mississippi in *Hairston, et al*

v. Davis, et al, No. 87,094 (October 20, 1972) in which the Court found a proposed scheme of assessment to be unconstitutional and permanently enjoined the Mayor and Commissioners of the City of Jackson, Mississippi from finally completing and approving the 1972 real property ad valorem tax assessment roll until the assessments had been properly equalized so that all property in the taxing district would be assessed at the same percentage or ratio of its fair market value. Thus, not only was the statutory injunction method available to the petitioners herein; they also had available to them the injunctive powers of the Chancery Court under general equity jurisdiction.

The remaining objections advanced in the Petition (Pet. pp. 25-31) have already been answered by the holding of the Court of Appeals, and further discussion at this point is not warranted. It is abundantly clear, we submit, that the procedures provided for taxpayers by which they may object to assessments and proposed taxes in the state of Mississippi is "plain, speedy and efficient", no matter what standard one uses to judge the meaning of those words contained in 28 U.S.C. §1341.

CONCLUSION

For the reasons hereinabove set forth it is respectfully submitted that the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 9th day of February, 1973, three copies of the above and foregoing Brief of Respondents in Opposition were mailed, postage prepaid to George Peach Taylor, Esq. and Frank R. Parker, Esq., 223 North Farish Street, Jackson, Mississippi 39201, counsel for petitioners. I further certify that all parties required to be served have been served.

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